

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BRANDON BENNETT

Plaintiff,

Case No. 20-

-

HON.

v.

OS RESTAURANT SERVICES, LLC,
A Florida limited liability company, and
OUTBACK STEAKHOUSE OF FLORIDA, LLC
A Florida limited liability company

Defendants.

COURTNEY E. MORGAN, JR. (P29137)
BRIAN T. KECK (P77668)
LAW OFFICES OF COURTNEY MORGAN PLLC
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bkeck@courtneymorganlaw.com

There is no other pending civil action arising out of
the transaction or occurrence alleged in the complaint.

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES, the above-captioned Plaintiff, Brandon Bennett, by and
through his attorneys, LAW OFFICES OF COURTNEY MORGAN PLLC, and for
his complaint against the above-named Defendants states as follows:

JURISDICTION, PARTIES, AND VENUE

1. At all times relevant to this complaint Brandon Bennet (“Mr. Bennett”) was a resident of Canton Township, County of Wayne, State of Michigan.
2. Upon knowledge and belief, Defendant OS Restaurant Services (“OS”) is a Florida limited liability company conducting business in Michigan.
3. Upon knowledge and belief, Outback Steakhouse of Florida, LLC is a Florida limited liability company conducting business in Michigan.
4. Jurisdiction exists pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1332.
5. The amount in controversy in this litigation exceeds \$75,000, exclusive of costs and attorney fees.

FACTUAL ALLEGATIONS

Plaintiff hereby realleges and incorporates by reference, each and every paragraph above, as though fully set forth herein, and further states, in the alternative, the following:

6. As a teenager, Mr. Bennett was diagnosed with Attention Deficit Hyperactive Disorder (“ADHD”).
7. Mr. Bennett had been working for Defendants OS and/or Outback Steakhouse, for nineteen years at the time of the incident.
8. Plaintiff signed an employment agreement with OS and Outback Steakhouse on December 27, 2017 to become the proprietor of the Outback

Steakhouse located at 42871 Ford Road, Canton, MI 48187 to be effective January 1, 2018.

9. Mr. Bennett was qualified for his position as proprietor of the Outback Steakhouse in Canton, MI.

10. During the time of his employment, Mr. Bennett discharged his duties satisfactorily.

11. Due to his ADHD, Mr. Bennett required an extra manager at his store and was provided with such a manager.

12. However, in June of 2019 the manager who had previously assisted Mr. Bennett with his disability was removed.

13. On September 9, 2019, with respect to Mr. Bennett's continued employment at Defendant OS and/or Outback Steakhouse Mr. Bennett was called a "dinosaur" by his supervisor.

14. Mr. Bennett complained to Human Resources for Defendant OS and/or Outback Steakhouse about his supervisor's comments regarding his age.

15. Despite the complaint made by Mr. Bennett, human resources made further comments about Mr. Bennett's age being a negative quality with respect to his continued employment with Defendant OS and/or Outback Steakhouse.

16. Thereafter, Mr. Bennett became aware of Defendant OS and/or Outback Steakhouse's intent to terminate him.

17. Mr. Bennett again complained to Defendant OS and/or Outback Steakhouse that he believed he was being discriminated against as a result of his age and his disability, i.e. ADHD, and that he was not reasonably being accommodated.

18. He identified that an extra manger or new leader would be an appropriate accommodation to assist him in performing his duties.

19. Defendant OS and/or Outback Steakhouse determined it would not provide these accommodations and terminated Mr. Bennett on November 14, 2019.

20. As of the date of termination Mr. Bennett was forty-one (41) years old.

21. Upon knowledge and belief, Defendants terminated Mr. Bennett to prevent him from vesting and/or acquiring equity pursuant to the contract with Defendants.

22. Upon knowledge and belief, Defendant OS and/or Outback Steakhouse failed to replace younger managers despite similar or worse job performance.

23. Upon knowledge and belief, other Defendant OS and/or Outback Steakhouse employees, including younger employees with disabilities, were not terminated despite similar or worse job performance.

24. Mr. Bennett filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) on March 20, 2020.

25. On August 14, 2020, the EEOC issued a notice of right to sue.

26. Mr. Bennett has suffered damages as a result of the age and disability discrimination by Defendants OS and/or Outback Steakhouse, and his wrongful termination including, but not limited to:

- a. Loss of earnings, earning capacity, and benefits including accrued personal days, sick days, vacation days, retirement benefits, health insurance;
- b. Loss of career opportunities;
- c. Loss of enjoyment of life, past, present and future;
- d. Denial of social pleasures and enjoyments;
- e. Attorney fees and costs;
- f. Punitive and/or exemplary damages;
- g. Mental and emotional distress; and,
- h. Other damages to be determined throughout the course of discovery.

**COUNT I - AGE DISCRIMINATION IN VIOLATION OF THE AGE
DISCRIMINATION IN EMPLOYMENT ACT (ADEA) 29 USC § 621 AS TO
DEFENDANTS**

Plaintiff hereby realleges and incorporates by reference, each and every paragraph above, as though fully set forth herein, and further states, in the alternative, the following:

27. Mr. Bennett was a member of a class possessing one of the traits protected by the Age Discrimination in Employment Act of 1967 (“ADEA”) as Mr. Bennett was forty-one (41) years old as of the discriminatory action.

28. Mr. Bennett was disciplined and terminated based on his age as evidenced by:

- a. Statements made by agents and/or employees of Defendants regarding Mr. Bennett’s age, including but limited to calling Mr. Bennett a “dinosaur”;
- b. Mr. Bennett was treated differently than similarly situation younger employees.

29. Because of Mr. Bennett’s status as an individual over the age of forty, Defendants discriminated against Plaintiff in violation of the ADEA.

30. As a direct and proximate result of the Defendants’ wrongful acts and omissions as described above, Mr. Bennett has suffered damages including, but not limited to:

- a. Compensatory damages in whatever amount above Seventy-Five Thousand (\$75,000.00) Dollars which the trier of fact deems appropriate;

- b. Loss of earnings, earning capacity, and fringe benefits including, but not limited to accrued personal days, sick days, vacation days, retirement benefits, health insurance;
- c. Loss of equity;
- d. Loss of career opportunities;
- e. Loss of enjoyment of life, past, present and future;
- f. Denial of social pleasures and enjoyments;
- g. Attorney fees and costs;
- h. Punitive and/or exemplary damages;
- i. Mental and emotional distress; and,
- j. Other damages to be determined throughout the course of discovery.

WHEREFORE, Mr. Bennett requests that this Court award damages against Defendants OS Restaurant Services, LLC and Outback Steakhouse of Florida, LLC in an amount not less than SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS, exclusive of interests, costs, and attorney fees, and any other relief it deems equitable under the circumstances.

COUNT II - DISABILITY DISCRIMINATION PURSUANT TO 42 U.S.C. § 12101, et seq. AS TO DEFENDANTS

Plaintiff hereby realleges and incorporates by reference, each and every paragraph above, as though fully set forth herein, and further states, in the alternative, the following:

31. Mr. Bennett suffers from ADHD, which is a mental impairment which substantially limits one or more of Mr. Bennett's major life activities.

32. Mr. Bennett was employed by Defendants for nearly two decades and thus he was certainly a qualified individual.

33. Mr. Bennet was terminated by Defendants because his mental impairment.

34. Prior to termination, Mr. Bennett notified Defendants of his need for an accommodation.

35. A reasonable accommodation, such as an extra manager would have enabled Mr. Bennett to perform the requirements of his job.

36. These reasonable accommodations were provided to others in Mr. Bennett's position and had been previously provided to Mr. Bennett.

37. The Defendants refused to provide a reasonable accommodation.

38. As a result of this discrimination and failure to accommodate, Mr. Bennett has suffered damages including, but not limited to:

39. As a direct and proximate result of the Defendants' wrongful acts and omissions as described above, Mr. Bennett has suffered damages including, but not limited to:

- a. Compensatory damages in whatever amount above Seventy-Five Thousand (\$75,000.00) Dollars which the trier of fact deems appropriate;
- b. Loss of earnings, earning capacity, and fringe benefits including, but not limited to accrued personal days, sick days, vacation days, retirement benefits, health insurance;
- c. Loss of equity;
- d. Loss of career opportunities;
- e. Loss of enjoyment of life, past, present and future;
- f. Denial of social pleasures and enjoyments;
- g. Attorney fees and costs;
- h. Punitive and/or exemplary damages;
- i. Mental and emotional distress; and,
- j. Other damages to be determined throughout the course of discovery.

WHEREFORE, Mr. Bennett requests that this Court award damages against Defendants OS Restaurant Services, LLC and Outback Steakhouse of Florida, LLC

in an amount not less than SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS, exclusive of interests, costs, and attorney fees, and any other relief it deems equitable under the circumstances.

Respectfully submitted,

LAW OFFICES OF COURTNEY MORGAN
PLLC

BY: /s/ Brian T. Keck
COURTNEY E. MORGAN, JR. (P29137)
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DATED: November 12, 2020

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bkeck@courtneymorganlaw.com

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, by and through her attorneys LAW OFFICES OF COURTNEY MORGAN PLLC, and hereby demands a jury trial in the above cause of action.

Respectfully submitted,

LAW OFFICES OF COURTNEY MORGAN
PLLC

BY: /s/ Brian T. Keck
COURTNEY E. MORGAN, JR. (P29137)
BRIAN T. KECK (P77668)
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3200 Greenfield, Suite 355
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DATED: November 12, 2020